

FIRST NOTICE OF COMMENT PERIOD

LSA Document #14-29

SEPTAGE MANAGEMENT**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [327 IAC 7.1](#) concerning the wastewater and septage management program. A First Notice, LSA Document #12-380, concerning wastewater and septage management was published on July 11, 2012, at DIN: [20120711-IR-327120380FNA](#), in the Indiana Register. After discussions with interested stakeholders, it became apparent that the specific list of potential changes to [327 IAC 7.1](#) in the notice was too narrow in scope. In order to allow for full consideration of changes necessary to the septage management program, IDEM is withdrawing LSA Document #12-380 and beginning this First Notice of Comment Period. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: [327 IAC 7.1](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-18-12](#); [IC 13-19-3-1](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

Wastewater, also known as septage, comes from a variety of sources, including domestic septic tanks, holding tanks, privies, seepage pits, cesspools, compost toilets, portable sanitary units, and grease from traps or interceptors. All of these sources are defined as sewage disposal systems under [IC 13-11-2-201](#). IDEM requires a septage management permit when septage is transported, treated, stored, or disposed of, and when sewage disposal systems are cleaned ([327 IAC 7.1](#) and [IC 13-18-12](#)). Under the current permitting scheme, septage may be transported to, and discharged directly into, a National Pollutant Discharge Elimination System (NPDES) permitted publicly owned treatment works (POTW), disposed at a permitted municipal solid waste landfill, transported to a storage or treatment facility specifically designed for the storage or treatment of domestic septage and grease, or, if preapproved by IDEM, it may be land applied.

The 2011 and 2012 Indiana General Assembly made changes to [IC 13-18-12](#) regarding wastewater and septage management, including removal of vehicle licensing requirements. This rulemaking will include replacing the word "wastewater" with "septage" throughout [327 IAC 7.1](#), and removing vehicle licensing requirements to comport with [IC 13-18-12](#). IDEM is considering reorganizing and revising language for better clarity and understanding in the septage program. This could include removing outdated language and forms from the rule, reorganizing requirements for storage and treatment facilities, adding definitions, and incorporating applicable federal regulations, as necessary. More specific considerations include record keeping requirements for storage, treatment, and disposal of septage; reconsideration of water table restrictions; and setting standards and allowing alternatives for septage transport. IDEM is also considering changes to the land application of septage, including regulating phosphorus, clarifying soil-sampling parameters and frequency of collection and analysis, requiring quarterly land application reports for each site, and requiring maps for delineation in a quarterly report. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend the septage management rules to comport with [IC 13-18-12](#); reorganize and revise language for better clarity and understanding; make changes to the land application of septage; develop standards for better access to data about storage, treatment, and disposal of septage; reconsider water table restrictions; and set standards and allow alternatives for septage transport.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? This alternative may include incorporations of federal regulations and definitions.
- Is this alternative imposed by federal law or is there a comparable federal law? No, federal law does not impose this alternative, but there are parts of comparable federal regulations being considered for incorporation. State law does impose some changes.
- If it is a federal requirement, is it different from federal law? Federal law does not require these changes.
- If it is different, describe the differences. There will be no differences because this is not a federal requirement.

Alternative 2. Not do a rulemaking. However, not doing a rulemaking would leave the rules in conflict with the terms created by the 2011 and 2012 Indiana General Assembly changes to [IC 13-18-12](#).

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

- Is this alternative imposed by federal law or is there a comparable federal law? No, this alternative is not imposed by federal law.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

40 CFR 257, Criteria for Classification of Solid Waste Disposal Facilities and Practices

40 CFR 503, Standards for the Use or Disposal of Sewage Sludge

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This approach, which would amend the rules to reflect the 2011 and 2012 statutory changes, including the statutory changes that eliminated vehicle licenses, would have no fiscal impact on regulated entities beyond that already imposed by state law. Reorganizing and revising language for better clarity and understanding, developing standards for better access to data about storage, treatment, and disposal of septage, would add no significant additional fiscal impact. Reconsideration of water table restrictions, and setting standards and allowing alternatives for septage transport would be a positive fiscal impact to the regulated community. Changes to the land application of septage, including regulating phosphorus in septage to be land applied, may have a fiscal impact to a small portion of the regulated community. Phosphorus rules may require soil testing on an annual or biannual basis; these tests are relatively low in cost. Phosphorus rules may also place limits on the content of phosphorus in soil, which may affect the ability to use certain sites for land application. Further fiscal impact estimates will be determined once draft language has been developed.

Potential Fiscal Impact of Alternative 2. There would be no fiscal impact imposed. However, not doing a rulemaking would be a missed opportunity for a positive fiscal impact to the regulated community by reconsidering water table restrictions and setting standards and allowing alternatives for septage transport. Additionally, the opportunity to provide clear and consistent requirements and remove unneeded language to comport with 2011 and 2012 statutory changes will not be realized.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin
IDEM Small Business Regulatory Coordinator
MC 60-04 IGCS W041
402 West Washington Street
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Jacob Schpok
Indiana Small Business Development Center
One North Capitol, Suite 600
Indianapolis, IN 46204
(317) 232-8805
ombudsman@osbe.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Steven N. Howell
IDEM Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8587 or (800) 451-6027
snhowell@idem.in.gov

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal

discussion on the rule is appropriate, please contact Lauren Aguilar, Rule Development Branch, Office of Legal Counsel at (317) 234-8559 or (800) 451-6027 (in Indiana).

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #14-29 Septage Management
Lauren Aguilar
Rule Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Mail Code 65-46
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rule Development Branch at (317) 233-8903.

- (3) By electronic mail to laguilar@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than March 21, 2014. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Lauren Aguilar, Rule Development Branch, Office of Legal Counsel (317) 234-8559 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rule Development Branch
Office of Legal Counsel

Posted: 02/19/2014 by Legislative Services Agency
An [html](#) version of this document.